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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,441	04/07/2005	Wilfried Weitzer	4121-175	8411

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INTELLECTUAL PROPERTY / TECHNOLOGY LAW  
PO BOX 14329  
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EXAMINER	
A, PHI DIEU TRAN	

ART UNIT	PAPER NUMBER
3633	

MAIL DATE	DELIVERY MODE
11/01/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/518,441

Applicant(s)

WEITZER, WILFRIED

Examiner

Phi D. A

Art Unit

3633

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

1. PRODUCT BY PROCESS CLAIM:

“ The subject matter present is regarded as a product by process claim in which a product is introduced by the method in which it is made. It is the general practice of this office to examine the final product described regardless of the method provided by the applicant.”

The above office policy applies to the limitation of by an audible and noticeable click of claim 7.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Ostrovsky (GB2117813).

Ostrovsky (figures 1-2) shows a panel element having a utilization side (11 top, figure 2), a counter draw (11, bottom figure 2) opposite the utilization side, a first longitudinal side having a tongue (parts 13, 27, 28 and its associated recesses, figure 1), a second longitudinal side which is located opposite the first longitudinal side and has a groove (the part denoted by 12, 23, figure 1) with a contour opposite to that of the tongue wherein the tongue having a first projection (27) extending beyond the utilization side in a first direction parallel to the utilization side and normal to the longitudinal direction of the tongue, and said projection having a flat side (figure 2, the area where part 33 touches the tongue) facing the utilization side and extending in the first direction, wherein in the region of the counter draw, the- tongue having a second projection (28) extending in the first direction, a first undercut (the space where 31 is located) being formed

between the first projection and the second projection, the groove having a third projection (22) extending beyond the counter draw in the first direction; and for creating a tongue and groove joint, the tongue being attached in an inclined fashion to the groove of another similar panel element and substantially on account of a rotary motion, the tongue and groove joint being established by locking the tongue in the groove of the other similar panel element, wherein the second projection of the tongue can be locked with the third projection of the groove of the other similar panel element and a semi-plastic deformation of the second projection (28) of the tongue and/or the third projection (22) of the groove of the other similar panel occurs during locking, the first undercut has a constriction in its opening region., the tongue has at least one extension and/or one second undercut in the second direction normal to the utilization side, the first projection (27) comprises the extension and/or the second undercut (the area below the projection 27), the first undercut and the second undercut are merged, when tongue is connected with the groove of another similar panel element without clearance, the tongue and groove have at least five contact points (there are indefinite contact points along the contact areas of the structure), the second projection (28) of the tongue can be locked with the third projection (22) of the groove of the other similar panel element by an audible and noticeable click ( inherently able to function as claimed, when tongue is connected with the groove of another similar panel element the semi-plastic deformation is at least partially reconverted, the longitudinal sides and/or the face sides are at least partially treated, in particular sprayed, coated (coated by part 10) with a hydrophobic agent (metallic layer is hydrophobic), glue channels (64v-6-2-) form when the tongue is connected with the groove of another similar panel element, the first region of the second projection at the first longitudinal side having a distance from the tongue side edge of the

utilization side which is smaller than that of a second region of the first undercut, the first region of the second projection is farther outside at the panel element in the extension direction of the second projection than the second region of the first undercut.

The reference also shows an interlocking floor system as set forth in claim 11.

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1-12 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Phi Dieu Tran A

PA

10/29/07

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